

Message Text

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ORIGIN NEA-10

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-----010194 031719Z /47

R 031318Z JUL 78
FM SECSTATE WASHDC
TO ALL DIPLOMATIC POSTS
USINT BAGHDAD
AMCONSUL ALEXANDRIA
AMCONSUL DHAHRAN

UNCLAS STATE 168024

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: ARAB BOYCOTT: COMMERCE ISSUES ANTI-BOYCOTT
REPORTING REGULATIONS

1. DEPARTMENT OF COMMERCE MADE PUBLIC TODAY FINAL TEXT OF
ANTI-BOYCOTT REPORTING REGULATIONS, WHICH ARE EXPECTED
TO APPEAR IN JULY 5 FEDERAL REGISTER. TEXT OF REGULATIONS
BEING POUCHED; COMMERCE INTERPRETIVE SUMMARY FOLLOWS:
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BEGIN TEXT

1. REPORTING REGULATIONS BROAD IN SCOPE BUT ALSO MINIMIZE
REPORTING BURDENS

THE REPORTING REGULATIONS ARE BROAD IN SCOPE. THEY ARE

BROAD ENOUGH TO PROVIDE THE DEPARTMENT OF COMMERCE WITH SUFFICIENT INFORMATION TO MONITOR BOYCOTT REQUESTS AND ENFORCE THE LAW WITHOUT UNNECESSARILY INTRUDING ON THE SOVEREIGNTY OF FOREIGN COUNTRIES.

THE REGULATIONS ALSO REFLECT A SERIOUS EFFORT TO MINIMIZE PAPERWORK AND REDUCE THE COST OF REPORTING.

2. REQUESTS ARE REPORTABLE EVEN IF ACTION REQUESTED IS PERMITTED UNDER THE LAW

A BOYCOTT REQUEST IS CONSIDERED REPORTABLE WHETHER THE ACTION REQUESTED IS PROHIBITED OR PERMISSIBLE UNDER THE SUBSTANTIVE REGULATIONS PUBLISHED IN JANUARY.

3. THE TERM "REQUEST" CONSTRUED BROADLY

THE TERM "REQUEST" IS CONSTRUED BROADLY. A REQUEST MAY BE ORAL OR WRITTEN. IT INCLUDES A SITUATION WHERE AN EXPORTER IS NEGOTIATING A TRANSACTION WITH A BOYCOTTING COUNTRY, KNOWS THAT HE WILL BE ASKED TO SUPPLY CERTAIN REPORTABLE BOYCOTT INFORMATION AT THE CONCLUSION OF THE NEGOTIATIONS, AND, IN AN EFFORT TO FORESTALL RECEIPT OF THE REQUEST AND THEREBY AVOID HAVING TO FILE A REPORT, SUPPLIES THE INFORMATION IN ADVANCE. IT ALSO INCLUDES A SITUATION WHERE AN EXPORTER

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ASKS HIS FREIGHT FORWARDER TO DO WHATEVER IS NECESSARY TO SHIP GOODS TO A BOYCOTTING COUNTRY AND THE FREIGHT FORWARDER PURSUANT TO THAT REQUEST TAKES ACTION TO COMPLY WITH A BOYCOTT REQUIREMENT SUCH AS OBTAINING A CERTIFICATION THAT THE VESSEL ON WHICH THE GOODS WILL BE SHIPPED IS NOT BLACKLISTED. IN THAT CASE, THE FREIGHT FORWARDER HAS RECEIVED A REPORTABLE REQUEST FOR PURPOSES OF THESE REGULATIONS.

4. FOREIGN SUBSIDIARIES GENERALLY TO REPORT ONLY IF TRANSACTION IS IN U.S. COMMERCE

BOYCOTT REQUESTS RECEIVED BY U.S. COMPANIES AND THEIR CONTROLLED FOREIGN SUBSIDIARIES ARE GENERALLY REPORTABLE ONLY IF THE REQUEST PERTAINS TO ACTIVITIES IN U.S. COMMERCE.

-- THE REGULATIONS DO NOT REQUIRE REPORTING OF REQUESTS RECEIVED BY CONTROLLED FOREIGN SUBSIDIARIES WHERE NO U.S. COMMERCE IS INVOLVED.

-- THE BOYCOTT LAW IS PREMISED ON U.S. OPPOSITION TO

FOREIGN INTERFERENCE WITH U.S. COMMERCE. IT WOULD BE CONTRARY TO THE SPIRIT OF THE STATUTE FOR ITS REPORTING REQUIREMENTS TO IMPOSE BURDENS ON ACTIVITIES WHOLLY WITHIN THE COMMERCE OF ANOTHER NATION AND NOT OTHERWISE SUBJECT TO U.S. LAW.

-- BUT THE REGULATIONS RE-EMPHASIZE THAT ACTIONS TAKEN TO EVADE THE PROVISIONS GOVERNING US COMMERCE WILL BE REGARDED AS EVASION OF THE STATUTE AND SUBJECT TO SEVERE PENALTIES.

5. WHILE FOREIGN SUBSIDIARIES GENERALLY NOT REQUIRED TO REPORT ON TRANSACTIONS OUTSIDE US COMMERCE, THEIR US PARENT COMPANIES WILL BE SURVEYED PERIODICALLY FOR UNCLASSIFIED

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INFORMATION ON SUCH TRANSACTIONS. SURVEYS TO BE MADE PUBLIC.

FROM TIME TO TIME, THE DEPARTMENT OF COMMERCE WILL SURVEY US COMPANIES FOR THE PURPOSE OF DETERMINING THE WORLD WIDE SCOPE OF REQUESTS RECEIVED BY THEIR CONTROLLED FOREIGN SUBSIDIARIES WITH RESPECT TO THEIR ACTIVITIES OUTSIDE US COMMERCE. THE INFORMATION REQUESTED WILL INCLUDE THE NUMBER AND NATURE OF BOYCOTT REQUESTS RECEIVED, THE ACTION TAKEN IN RESPONSE, AND THE COUNTRIES IN WHICH THE REQUESTS ORIGINATE. THE RESULTS OF THE SURVEY, INCLUDING THE NAMES OF THE FIRMS SURVEYED, WILL BE MADE PUBLIC.

6. GENERAL BOYCOTT QUESTIONNAIRES DIRECTED TO FOREIGN SUBSIDIARIES BUT UNRELATED TO A PARTICULAR TRANSACTION MAY BE REPORTABLE

THE REPORTING REQUIREMENTS ALSO APPLY TO THE RECEIPT BY A FOREIGN SUBSIDIARY OF A REQUEST, SUCH AS A BOYCOTT QUESTIONNAIRE, UNRELATED TO A PARTICULAR TRANSACTION, WHEN THE RECIPIENT HAS OR ANTICIPATES A BUSINESS RELATIONSHIP WITH A BOYCOTTING COUNTRY INVOLVING US COMMERCE.

7. STEPS TAKEN TO REDUCE THE PAPERWORK AND OTHER BURDENS OF REPORTING

IN ORDER TO REDUCE THE PAPERWORK AND OTHER BURDENS OF REPORTING:

-- A PERSON ACTUALLY RECEIVING A REPORTABLE BOYCOTT REQUEST MAY DESIGNATE SOMEONE ELSE TO REPORT ON HIS UNCLASSIFIED

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BEHALF. FOR EXAMPLE, A FREIGHT FORWARDER, IF AUTHORIZED, MAY REPORT ON BEHALF OF THE EXPORTER; A BANK MAY REPORT FOR THE BENEFICIARY OF A LETTER OF CREDIT. THIS CHANGE WILL HELP REDUCE THE AMOUNT OF DUPLICATIVE REPORTING BY SEVERAL PARTIES IN THE SAME TRANSACTION.

-- MONTHLY REPORTING WILL CONTINUE UNTIL JUNE 30, 1979. HOWEVER, REPORTING WILL BE ONLY QUARTERLY THEREAFTER.

-- THE DEADLINE FOR FILING REPORTS RECEIVED BY DOMESTIC CONCERNS HAS BEEN PUSHED BACK TO THE LAST DAY OF THE MONTH FOLLOWING THE PERIOD DURING WHICH THE REQUEST

WAS RECEIVED. FOR CONTROLLED FOREIGN SUBSIDIARIES AND AFFILIATES, THE DEADLINE IS THE LAST DAY OF THE SECOND MONTH FOLLOWING THE PERIOD OF RECEIPT.

-- IN SOME CASES, A PERSON HAS THE OPTION OF USING A MULTIPLE-TRANSACTION REPORTING FORM, WHICH PERMITS HIM TO PROVIDE ON ONE FORM ALL REPORTABLE REQUESTS RECEIVED DURING THE PRECEDING REPORTING PERIOD. PREVIOUSLY, A SEPARATE FORM WAS REQUIRED FOR EACH REQUEST. THIS CONVENIENCE IS INTENDED TO REDUCE BOTH THE PAPER-WORK BURDEN AND THE COST OF REPORTING.

8. REPORTS AVAILABLE TO PUBLIC

COPIES OF REPORTS WILL BE MADE AVAILABLE PROMPTLY FOR PUBLIC INSPECTION AND COPYING. GENERALLY, INFORMATION RELATING TO THE QUANTITY, DESCRIPTION OR VALUE OF THE GOODS INVOLVED WILL NOT BE DISCLOSED UNLESS THE SECRETARY OF COMMERCE DETERMINES THAT DISCLOSURE WOULD NOT PLACE THE US PERSON INVOLVED AT A COMPETITIVE DISADVANTAGE OR THAT IT WOULD BE CONTRARY TO THE NATIONAL INTEREST TO WITHHOLD THE INFORMATION.

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9. EFFECTIVE DATE

THE NEW REGULATIONS ARE EFFECTIVE AUGUST 1, 1978 WITH RESPECT TO REQUESTS RECEIVED ON OR AFTER THAT DATE.
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To: ALL POSTS BAGHDAD MULTIPLE
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